



February 20, 2004

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## ENGROSSED SENATE BILL No. 29

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DIGEST OF SB 29 (Updated February 17, 2004 3:59 pm - DI 77)

**Citations Affected:** IC 20-1; IC 20-5; IC 20-10.1; noncode.

**Synopsis:** Childhood obesity. Requires the department of education to develop: (1) recommendations for school corporation nutritional policies and curricula; and (2) model policies for the measurement of student body mass indexes. Prohibits vending machines at elementary schools from being accessible to students. Requires that healthy foods and beverages account for 50% of the food and beverage sales in middle and high schools. Requires school corporations to adopt nutritional integrity policies. Requires 30 minutes of daily physical activity for elementary school students in public schools. Allows a school to continue a vending machine contract in existence before April 1, 2004.

**Effective:** April 1, 2004; July 1, 2004.

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**Dillon, Wyss, Lanane, Skinner**

(HOUSE SPONSORS — BROWN C, BECKER)

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November 18, 2003, read first time and referred to Committee on Rules and Legislative Procedure.

January 22, 2004, amended; reassigned to Committee on Transportation and Homeland Security.

January 29, 2004, amended, reported favorably — Do Pass.

February 2, 2004, read second time, ordered engrossed. Engrossed.

February 3, 2004, read third time, passed. Yeas 49, nays 0.

HOUSE ACTION

February 5, 2004, read first time and referred to Committee on Public Health.

February 19, 2004, amended, reported — Do Pass.

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ES 29—LS 6035/DI 13+



February 20, 2004

Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

## ENGROSSED SENATE BILL No. 29

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A BILL FOR AN ACT to amend the Indiana Code concerning health and education.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 20-1-1.1-7, AS AMENDED BY P.L.206-2001,  
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2004]: Sec. 7. (a) The department of education shall:

4 (1) establish the position of education consultant for health and  
5 physical education; and

6 (2) hire an individual to perform the duties of education  
7 consultant.

8 (b) The education consultant for health and physical education shall:

9 (1) plan and develop curriculum for health, **nutrition**, and  
10 physical education for grades kindergarten through 12, **which**  
11 **shall be broadly distributed to teachers and parents**; and

12 (2) perform other duties as the department designates.

13 (c) The department of education shall establish a program in health,  
14 **nutrition**, and physical education for children in grades kindergarten  
15 through 12. The purposes of this program are to encourage children to  
16 develop:

17 (1) healthful living habits;

ES 29—LS 6035/DI 13+



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- (2) an interest in lifetime health and physical fitness; ~~and~~  
 (3) decisionmaking skills in the areas of health and physical  
 fitness; **and**  
**(4) increased levels of physical activity consistent with**  
**guidelines established by the education consultant for health**  
**and physical education.**

(d) The program in health, **nutrition**, and physical education must include the following elements:

- (1) Local school program development.  
 (2) Technical and inservice training assistance for local schools.  
 (3) Local school initiatives in writing curricula in the areas of health and physical education.  
 (4) Cardiopulmonary resuscitation training using a training program approved by the American Heart Association or an equivalent nationally recognized training program.  
**(5) An outreach and communication plan to provide parents and students with current information and research on health, nutrition, and physical education issues.**

(e) In establishing the program in health and physical education, the department may give grants to or enter into contracts with individuals or school corporations to carry out the purposes of the program.

SECTION 2. IC 20-1-1.1-11 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 11. (a) The division of school and community nutrition programs of the department shall develop recommendations for use by school corporations in:**

- (1) determining the nutritional content of meals served in schools; and**  
**(2) establishing policies concerning foods that are available to students in schools.**

**(b) The following apply to recommendations developed under subsection (a):**

- (1) The recommendations must be based on current nutritional science that has been demonstrated to help students:**  
**(A) control excessive weight and weight gain;**  
**(B) avoid unsafe weight loss practices;**  
**(C) develop healthy eating habits; and**  
**(D) avoid diseases caused by unsafe dietary habits.**  
**(2) The recommendations may address the different health needs and peer influences of students in elementary school, middle school, and high school.**

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SECTION 3. IC 20-1-1.1-12 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 12. (a) The department, in consultation with the state department of health, shall develop and make available to school corporations model policies for the measurement of the body mass index of students or other measurement of fat composition.**

**(b) A student's body mass index may not be included on a student's report card.**

**(c) A student's body mass index shall be disclosed to the student's parent, guardian, or custodian upon request.**

SECTION 4. IC 20-5-2-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE APRIL 1, 2004]: **Sec. 2.5. (a) As used in this section, "healthy food" means the following:**

**(1) A food item that has not more than thirty percent (30%) total calories from fat, excluding nuts and seeds.**

**(2) A food item that has not more than ten percent (10%) total calories from saturated fats.**

**(3) A food item that provides at least ten percent (10%) of the United States Food and Drug Administration's recommended daily value for one (1) of the following nutrients:**

**(A) Vitamin A.**

**(B) Vitamin C.**

**(C) Calcium.**

**(D) Iron.**

**(E) Protein.**

**(F) Fiber.**

**(b) As used in this section, "healthy beverage" means the following:**

**(1) Water.**

**(2) Milk.**

**(3) Fruit drinks with at least fifty percent (50%) fruit juice.**

**(4) Vegetable drinks.**

**(c) After June 30, 2004, a vending machine that is located in an area of an elementary school's grounds or buildings may not be accessible to a student.**

**(d) This subsection does not apply to the following:**

**(1) Foods and beverages that are part of the United States Department of Agriculture's breakfast and lunch programs.**

**(2) Foods and beverages that are sold in areas of the school that are not accessible to students.**

**(3) Foods and beverages that are sold after normal school**

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hours.

After June 30, 2004, at least fifty percent (50%) of the foods and beverages sold in a middle school and high school that are available from each school group, organization, or department must qualify as a healthy food or a healthy beverage.

SECTION 5. IC 20-5-13-10 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 10. (a) Each school board shall adopt a nutritional integrity policy that includes the following:**

(1) A nutrition education curriculum consistent with curriculum and programs developed under IC 20-1-1.1-7.

(2) The incorporation of healthy dietary practices into the school corporation's meal program and the sale of other foods in the school.

Before adopting a policy, the school board must provide an opportunity for parents and community members to comment on the policy.

(b) The following apply to a nutritional integrity policy adopted under subsection (a):

(1) The policy must focus on helping students:

(A) control excessive weight and weight gain;

(B) avoid unsafe weight loss practices;

(C) develop healthy eating habits; and

(D) avoid diseases caused by unsafe dietary habits.

(2) The policy may address the different health needs and peer influences of students in elementary school, middle school, and high school.

(c) If foods that are not a part of the school corporation's meal program are sold in a school, the nutritional integrity policy adopted under subsection (a) must include the following:

(1) At least fifty percent (50%) of the foods available must qualify as healthy foods under the standards set in the nutritional integrity policy and guidelines established by the United States Department of Agriculture.

(2) Foods that do not qualify as healthy may be available for sale only at times and in locations that do not interfere with the service of meals.

(3) Prices set for foods that qualify as healthy and foods that do not qualify as healthy must be competitive.

(d) A school board:

(1) shall review; and

(2) may revise;

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1 a nutritional integrity policy adopted under subsection (a) at least  
2 every other school year.

3 SECTION 6. IC 20-10.1-4-5.5 IS ADDED TO THE INDIANA  
4 CODE AS A NEW SECTION TO READ AS FOLLOWS  
5 [EFFECTIVE JULY 1, 2004]: Sec. 5.5. (a) This section does not  
6 apply to:

- 7 (1) students who are in half-day kindergarten; or  
8 (2) a student who has a medical condition that precludes  
9 participation in the daily physical activity provided under this  
10 section.

11 (b) Beginning in the 2004-2005 school year, the governing body  
12 of each school corporation shall provide at least thirty (30) minutes  
13 of daily physical activity for students in elementary school. The  
14 physical activity must be consistent with the curriculum and  
15 programs developed under IC 20-1-1.1-7 and may include the use  
16 of recess. Available physical activity alternatives must be used on  
17 days of inclement weather conditions.

18 SECTION 7. [EFFECTIVE APRIL 1, 2004] IC 20-5-2-2.5, as  
19 added by this act, does not apply to a contract that:

- 20 (1) was executed before April 1, 2004;  
21 (2) is in existence on April 1, 2004; and  
22 (3) requires a governing body to allow the sale of:  
23 (A) soft drinks and similar beverages; and  
24 (B) food;

25 with no or low nutritional value, as defined by the United  
26 States Department of Agriculture, from vending machines or  
27 other dispensing units during school hours.

28 However, the governing body may not renew a contract described  
29 in this SECTION and, after the contract expires, must comply with  
30 IC 20-5-2-2.5, as added by this act.

31 SECTION 8. An emergency is declared for this act.

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SENATE MOTION

Madam President: I move that Senator Garton be removed as author of Senate Bill 29 and that Senator Dillon be substituted therefor.

GARTON

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## COMMITTEE REPORT

Madam President: The Senate Committee on Rules and Legislative Procedure, to which was referred Senate Bill No. 29, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning health and education.

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill be reassigned to the Senate Committee on Transportation and Homeland Security.

(Reference is to SB 29 as introduced.)

GARTON, Chairperson

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SENATE MOTION

Madam President: I move that Senator Wyss be added as coauthor  
of Senate Bill 29.

DILLON

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## COMMITTEE REPORT

Madam President: The Senate Committee on Transportation and Homeland Security, to which was referred Senate Bill No. 29, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, line 10, delete "state" and insert "**local**".

and when so amended that said bill do pass.

(Reference is to SB 29 as printed January 23, 2004.)

WYSS, Chairperson

Committee Vote: Yeas 7, Nays 0.

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**Y**



SENATE MOTION

Madam President: I move that Senator Lanane be added as coauthor of Engrossed Senate Bill 29.

DILLON

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SENATE MOTION

Madam President: I move that Senator Skinner be added as coauthor of Engrossed Senate Bill 29.

DILLON

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**Y**



COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred Senate Bill 29, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill do pass.

(Reference is to SB 29 as printed January 30, 2004.)

BROWN C, Chair

Committee Vote: yeas 9, nays 3.

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